

The Honorable Judge Robert S. Lasnik

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

JAMES MCDONALD,

**Plaintiff,**

V.

ONEWEST BANK, FSB, NORTHWEST  
TRUSTEE SERVICES, INC., MORTGAGE  
ELECTRONIC REGISTRATION SYSTEMS,  
INC., INDYMAC BANK FSB, DOES 1-50,

## Defendants.

No. C10-1952 RSL

**DEFENDANTS' ONEWEST AND MERS  
ANSWER TO PLAINTIFF'S SECOND  
AMENDED COMPLAINT**

Defendants.

Defendants OneWest Bank, FSB (“OneWest”) and Mortgage Electronic Registration Systems Inc. (“MERS”) (collectively “Defendants”) submit this Answer in response to Plaintiff James McDonald’s (“Plaintiff”) Second Amended Complaint (“SAC”) as follows. All allegations not expressly admitted, denied, or otherwise pled below are hereby to be construed as denied.

## **I. JURISDICTION, VENUE AND PARTIES**

- 1.1 Defendants admit the allegations of Paragraph 1.1.
- 1.2 Defendants assert the Note speaks for itself, and the Deed of Trust speaks for itself.  
To the extent and answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 1.2 and on that basis deny them.

1       1.3   Defendant OneWest admits that it does business in King County, Washington  
 2                 with headquarters located in Pasadena, CA. Defendant OneWest denies the  
 3                 remaining allegations contained in Paragraph 1.3. Defendant MERS and lacks  
 4                 sufficient information to admit or deny the allegations of Paragraph 1.3 and on  
 5                 that basis deny them.

6       1.4   Defendants assert the Notice of Trustee's Sale speaks for itself. To the extent and  
 7                 answer is required, Defendants lack sufficient information to admit or deny the  
 8                 remaining allegations of Paragraph 1.4 and on that basis denies them.

9       1.5   Defendant MERS admits that it is a corporation in Delaware and is listed as the  
 10                 beneficiary of the Deed of Trust named by the original lender Indymac Bank, FSB  
 11                 but lacks sufficient information to admit or deny the remaining allegations of  
 12                 Paragraph 1.5 and on that basis denies them.

13       1.6   Defendants admit the allegations of Paragraph 1.6.

14       1.7   The statement in Paragraph 1.7 of the SAC is a statement that does not warrant a  
 15                 denial or admission from Defendants.

## **II. BACKGROUND FACTS AND HISTORY**

16       2.1   Defendants assert that the Note speaks for itself, and the Deed of Trust speaks for  
 17                 itself. To the extent and answer is required, Defendants lack sufficient information  
 18                 to admit or deny the remaining allegations of Paragraph 2.1 and on this basis deny  
 19                 them.

20       2.2   The statement in Paragraph 2.2 of the SAC is a statement that does not warrant a  
 21                 denial or admission from defendants. To the extent an answer is required,  
 22                 Defendants assert that the Note speaks for itself.

1       2.3 The statements in Paragraph 2.3 contain legal conclusions and Defendants are not  
 2 required to respond. To the extent an answer is required, Defendants lack sufficient  
 3 information to admit or deny the remaining allegations of Paragraph 2.3 and on this  
 4 basis deny them.

5       2.4 The statements in Paragraph 2.4 contain legal conclusions and Defendants are not  
 6 required to respond. Defendants assert that the Notice of Default speaks for itself.  
 7 To the extent and answer is required, Defendants lack sufficient information to  
 8 admit or deny the remaining allegations of Paragraph 2.4 and on this basis deny  
 9 them.

10      2.4.1 The statements in Paragraph 2.4.1 contain legal conclusions and  
 11 Defendants are not required to respond. Defendants assert that the  
 12 Beneficiary Declaration speaks for itself. To the extent and answer is  
 13 required, Defendants lack sufficient information to admit or deny the  
 14 remaining allegations of Paragraph 2.4.1 and on this basis deny them.

15      2.5 The statements in Paragraph 2.5 contain legal conclusions and Defendants are not  
 16 required to respond. The letter referenced in Paragraph 2.5 speaks for itself. To  
 17 the extent an answer is required, Defendants lack sufficient information to admit or  
 18 deny the remaining allegations of Paragraph 2.5 and on this basis deny them.

19      2.6 To the extent the statements in Paragraph 2.6 contains legal conclusions,  
 20 Defendants are not required to respond. Defendants assert that the Assignment of  
 21 the Deed of Trust speaks for itself. To the extent and answer is required, Defendants  
 22 lack sufficient information to admit or deny the remaining allegations of Paragraph  
 23 2.6 and on this basis deny them.

2.7 To the extent the statements in Paragraph 2.7 contains legal conclusions, Defendants are not required to respond. Defendants assert that the Appointment of Successor Trustee speaks for itself. To the extent and answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 2.7 and on this basis deny them.

2.8 Defendants assert that the Notice of Trustee Sale speaks for itself. To the extent and answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 2.1 and on this basis deny them.

### 2.8.1 Parties

2.8.1.1 The statement in Paragraph 2.8.1.1 of the SAC is a statement that does not warrant a denial or admission from Defendants.

2.8.1.2 Defendants assert that the Notice of Trustee Sale speaks for itself. To the extent and answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 2.8.1.2 and on this basis deny them.

2.8.1.3 To the extent the statements in Paragraph 2.8.1.3 of the SAC contain legal conclusions, Defendants are not required to respond. Defendants assert that the Notice of Trustee Sale speaks for itself.

### 2.8.2 Fees and Amount to Reinstate in Section III

2.8.2.1 The statements in Paragraph 2.8.2.1 of the SAC are statements that do not warrant a denial or admission from Defendants. The Notice of Trustee's Sale speaks for itself.

2.8.2.2 The statements in Paragraph 2.8.2.2 of the SAC are statements that do not warrant a denial or admission from Defendants as it is a legal conclusion.

#### **2.8.2.3 Defendants assert that the Notice of Trustee's Sale speaks for itself.**

2.8.3 To the extent the statements in Paragraph 2.8.3 of the SAC contain legal conclusions, Defendants are not required to respond. For the remaining allegations, Defendants assert that the Notice of Trustee Sale speaks for itself. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 2.8.3 and on this basis deny them.

2.9 Defendants assert that the Amended Notice of Trustee Sale speaks for itself. To the extent and answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 2.9 and on this basis deny them.

### 2.9.1 Parties

2.9.1.1 The statements in Paragraph 2.9.1.1 of the SAC do not warrant an admission or denial by Defendants. To the extent and answer is required, Defendants assert that the Amended Notice of Trustee Sale speaks for itself.

2.9.1.2 The statement in Paragraph 2.9.1.2 is a statement that does not warrant a denial or admission from Defendants.

2.9.1.3 The statement in Paragraph 2.9.1.3 is a statement that does not warrant a denial or admission from Defendants. To the extent an

1 answer is required, Defendants assert that the Amended Notice of  
 2 Trustee Sale speaks for itself.

3       2.9.2 Fees and Amount to Reinstate in Section III

4           2.9.2.1 Defendants assert that the Amended Notice of Trustee Sale speaks  
 5 for itself. To the extent an answer is required, the statements in  
 6 Paragraph 2.9.2.1 of the SAC are legal conclusions and Defendants  
 7 are not required to respond.

8       2.9.3 The statement in Paragraph 2.9.3 is a statement that does not warrant a  
 9 denial or admission from Defendants. Defendants assert that the Notice of  
 10 Trustee's Sale speaks for itself.

11      2.9.4 The statement in Paragraph 2.9.4 is a statement that does not warrant a  
 12 denial or admission from Defendants. Defendants assert that the Amended  
 13 Notice of Trustee Sale speaks for itself.

14     2.10 To the extent Paragraph 2.10 of the SAC contain legal conclusions, Defendants are  
 15 not required to respond. As to the remaining allegations, the statements in  
 16 Paragraph 2.10 are statements that do not warrant a denial or admission from  
 17 Defendants. To the extent an answer is required, Defendants lack sufficient  
 18 information to admit or deny the remaining allegations and on this basis deny them.

19     2.11 The statements in Paragraph 2.11 of the SAC to not warrant a denial or admission  
 20 by Defendants. To the extent an answer is required, Defendants lack sufficient  
 21 information to admit or deny the remaining allegations of Paragraph 2.11 and on this  
 22 basis deny them.

2.12 The statements in Paragraph 2.12 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 2.12 and on this basis deny them.

2.13 The statements in Paragraph 2.13 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 2.13 and on this basis deny them.

2.14 The statements in Paragraph 2.14 of the SAC do not warrant a denial or admission by Defendants. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 2.14 and on this basis deny them.

2.15 The statements in Paragraph 2.15 of the SAC do not warrant a denial or admission by Defendants. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 2.15 and on this basis deny them.

2.16 The statements in Paragraph 2.16 of the SAC do not warrant a denial or admission by Defendants. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 2.16 and on this basis deny them.

2.17 The statements in Paragraph 2.17 of the SAC do not warrant a denial or admission by Defendants. To the extent an answer is required, Defendants lack sufficient

information to admit or deny the remaining allegations of Paragraph 2.17 and on this basis deny them.

### **III. PLAINTIFF'S CLAIMS**

3.1.1 Defendants re-state responses to each and every item and allegation above.

3.1.2 The statements in Paragraph 3.1.2 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 3.1.2 and on this basis deny them.

3.1.3 Defendants deny the statements in paragraph 3.1.3.

3.1.4 The statements in Paragraph 3.1.4 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 3.1.4 and on this basis deny them.

3.1.5 Defendants lack sufficient information to admit or deny the allegations of Paragraph 3.1.5 and on this basis deny them.

3.1.6 To the extent the statements in Paragraph 3.1.6 contain legal conclusions, Defendants are not required to respond. To the extent an answer is required for the remaining allegations, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 3.1.6 and on this basis deny them.

3.1.7 To the extent the statements in Paragraph 3.1.7 contain legal conclusions, Defendants are not required to respond. To the extent an answer is required

1 for the remaining allegations, Defendants lack sufficient information to  
2 admit or deny the allegations of Paragraph 3.1.7 and on this basis deny them.  
3

4 3.1.8 Defendants deny the allegations in Paragraph 3.1.8.  
5

6 3.1.9 Defendants deny the allegations in Paragraph 3.1.9.  
7

8 3.1.10 Defendants deny the allegations of Paragraph 3.1.10.  
9

10 3.1.11 Defendants deny the allegations in Paragraph 3.1.11.  
11

12 3.1.12 The statements in Paragraph 3.1.12 contain request for relief and Defendants  
13 are not required to respond. Defendants deny any implicit assertions  
14 contained in Paragraph 3.1.12.  
15

16 3.2 Violations of RESPA 12 U.S.C. § 2605 *et seq.* & § 2607 *et seq.*  
17

18 3.2.1 Defendants re-state responses to each and every item and allegation above.  
19

20 3.2.2 Defendants deny the allegations of Paragraph 3.2.2.  
21

22 3.2.3 Plaintiff seems to have struck this paragraph from the SAC. To the extent  
23 Plaintiff did not strike this paragraph, Defendants lack sufficient information  
24 to admit or deny the allegations of Paragraph 3.2.3 and on that basis deny  
25 them.  
26

27 3.2.4 Plaintiff seems to have struck this paragraph from the SAC. To the extent  
28 Plaintiff did not strike this paragraph, Defendants deny the allegations of  
29 Paragraph 3.2.4.  
30

31 3.2.5 Defendants deny the allegations of Paragraph 3.2.5.  
32

33 3.2.6 Defendants deny the allegations of Paragraph 3.2.6.  
34

1           3.2.7 Plaintiff seems to have struck this paragraph from the SAC. To the extent  
2           Plaintiff did not strike this paragraph, Defendants lack sufficient information  
3           to admit or deny the allegations of Paragraph 3.2.7.

4           3.2.8 The statements in Paragraph 3.2.8 contain request for relief and Defendants  
5           are not required to respond. Defendants deny any implicit assertions  
6           contained in Paragraph 3.2.8.

7           3.3 Violations of Truth and Lending Act 15 U.S.C. 1641 *et seq.*

8           3.3.1 Plaintiff seems to have struck this paragraph from the SAC. To the extent  
9           Plaintiff did not strike this paragraph, Defendants re-state responses to each  
10          and every item and allegation above.

11          3.3.2 Plaintiff seems to have struck this paragraph from the SAC. To the extent  
12          Plaintiff did not strike this paragraph, Defendants deny the allegations of  
13          Paragraph 3.3.2.

14          3.3.3 Plaintiff seems to have struck this paragraph from the SAC. To the extent  
15          Plaintiff did not strike this paragraph, Defendants deny the allegations of  
16          Paragraph 3.3.3.

17          3.3.4 Plaintiff seems to have struck this paragraph from the SAC. To the extent  
18          Plaintiff did not strike this paragraph, the statements in Paragraph 3.3.4  
19          contain request for relief and Defendants are not required to respond.  
20          Defendants deny any implicit assertions contained in Paragraph 3.3.4.

21           3.4 Violations of FDCPA 15 U.S.C. § 1692 *et seq.*

22           3.4.1 Defendants re-state responses to each and every item and allegation above.

1           3.4.2 The statements in Paragraph 3.4.2 contain legal conclusions and  
 2           Defendants are not required to respond. To the extent an answer is required,  
 3           Defendants lack sufficient information to admit or deny the allegations  
 4           contained in Paragraph 3.4.2 and on this basis deny them.

5           3.4.3 The statements in Paragraph 3.4.3 contain legal conclusions and  
 6           Defendants are not required to respond. To the extent an answer is required,  
 7           Defendants deny the allegations of Paragraph 3.4.3.

9           3.4.4 Defendants deny the allegations in Paragraph 3.4.4.

10          3.4.5 Defendants deny the allegations in Paragraph 3.4.5.

11          3.4.6 The statements in Paragraph 3.4.6 contain request for relief and Defendants  
 12           are not required to respond. Defendants deny any implicit assertions  
 13           contained in Paragraph 3.4.6.

15          3.5 Violations of FCRA 15 U.S.C. § 1681

16          3.5.1 Defendants re-state responses to each and every item and allegation above.

17          3.5.2 The statements in Paragraph 3.5.2 contain legal conclusions and  
 18           Defendants are not required to respond. To the extent an answer is required,  
 19           Defendant OneWest admits it furnished information to the three credit  
 20           bureaus and that it was notified by Equifax and TransUnion LLC that  
 21           Plaintiff disputed the account. Defendants deny the remaining allegations of  
 22           Paragraph 3.5.2.

24          3.5.3 The statements in Paragraph 3.5.3 contain legal conclusions and  
 25           Defendants are not required to respond. To the extent an answer is required,  
 26           Defendants deny the allegations of Paragraph 3.5.3.

1           3.5.4 Defendants deny the allegations in Paragraph 3.5.4.

2           3.5.5 The statements in Paragraph 3.5.5 contain legal conclusions and  
3           Defendants are not required to respond. To the extent an answer is required,  
4           Defendants deny the allegations of Paragraph 3.5.5.

5           3.5.6 The statements in Paragraph 3.5.6 contain legal conclusions and  
6           Defendants are not required to respond. To the extent an answer is required,  
7           Defendants deny the allegations of Paragraph 3.5.6.

9           3.5.7 The statements in Paragraph 3.5.7 contain legal conclusions and  
10          Defendants are not required to respond. To the extent an answer is required,  
11          Defendants deny the allegations of Paragraph 3.5.7.

12         3.6 Violations of the Washington Consumer Protection Act RCW 19.86 *et seq.*

13           3.6.1 Defendants re-state responses to each and every item and allegation above.

15           3.6.2 Elements of a Washington Consumer Protection Act Violation Claim

16           3.6.2.1 The statement in Paragraph 3.6.2.1 is a statement that does not  
17          warrant a denial or admission from Defendants.

18           3.6.2.2 The statements in Paragraph 3.6.2.2 contain legal conclusions and  
19          Defendants are not required to respond. To the extent an answer is  
20          required, Defendants lack sufficient information to admit or deny the  
21          allegations contained in Paragraph 3.6.2.2 and on this basis deny  
22          them.

24         3.6.3 Plaintiff alleges that Defendant Northwest Trustee has Violated the WA  
25          CPA

3.6.3.1 The statements in Paragraph 3.6.3.1 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.6.3.1, and on this basis deny them.

3.6.3.2 Defendants lack sufficient information to admit or deny the allegations of Paragraph 3.6.3.2 and on that basis deny them.

3.6.3.3 The statements in Paragraph 3.6.3.3 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.6.3.3 and on this basis deny them.

3.6.3.4 The statements in Paragraph 3.6.3.4 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.6.3.4 and on this basis deny them.

3.6.3.5 The statements in Paragraph 3.6.3.5 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.6.3.5 and on this basis deny them.

1           3.6.3.6 The statements in Paragraph 3.6.3.6 contain legal conclusions and  
2           Defendants are not required to respond. To the extent an answer is  
3           required, Defendants lack sufficient information to admit or deny the  
4           allegations contained in Paragraph 3.6.3.6 and on this basis deny  
5           them.  
6

7           3.6.4 Plaintiff Alleges that OneWest has Violated the WA CPA  
8

9           3.6.4.1 Defendants deny the allegations in Paragraph 3.6.4.1.  
10

11           3.6.4.2 The statements in Paragraph 3.6.4.2 contain statements that do not  
12           warrant a denial or admission by Defendants. To the extent an  
13           answer is required, Defendants deny the allegations in Paragraph  
14           3.6.4.2.  
15

16           3.6.4.3 The statements in Paragraph 3.6.4.3 contain legal conclusions and  
17           Defendants are not required to respond. To the extent an answer is  
18           required, Defendants lack sufficient information to admit or deny the  
19           allegations contained in Paragraph 3.6.4.3 and on this basis deny  
20           them.  
21

22           3.6.4.4 The statements in Paragraph 3.6.4.4 contain legal conclusions and  
23           Defendants are not required to respond. To the extent an answer is  
24           required, Defendants lack sufficient information to admit or deny the  
25           allegations contained in Paragraph 3.6.4.4 and on this basis deny  
26           them.  
27

28           3.6.4.5 The statements in Paragraph 3.6.4.5 contain legal conclusions and  
29           Defendants are not required to respond. To the extent an answer is  
30

1 required, Defendants lack sufficient information to admit or deny the  
2 allegations contained in Paragraph 3.6.4.5 and on this basis deny  
3 them.

4 3.6.4.6 The statements in Paragraph 3.6.4.6 contain legal conclusions and  
5 Defendants are not required to respond. To the extent an answer is  
6 required, Defendants lack sufficient information to admit or deny the  
7 allegations contained in Paragraph 3.6.4.6 and on this basis deny  
8 them.

9 3.6.5 Plaintiff alleges that Defendant MERS has Violated the WA CPA

10 3.6.5.1 Defendants deny the allegations in Paragraph 3.6.5.1.

11 3.6.5.2 The statements in Paragraph 3.6.5.2 contain legal conclusions and  
12 Defendants are not required to respond. To the extent an answer is  
13 required, Defendants lack sufficient information to admit or deny the  
14 allegations contained in Paragraph 3.6.5.2 and on this basis deny  
15 them.

16 3.6.5.3 The statements in Paragraph 3.6.5.3 contain legal conclusions and  
17 Defendants are not required to respond. To the extent an answer is  
18 required, Defendants lack sufficient information to admit or deny the  
19 allegations contained in Paragraph 3.6.5.3 and on this basis deny  
20 them.

21 3.6.5.4 The statements in Paragraph 3.6.5.4 contain legal conclusions and  
22 Defendants are not required to respond. To the extent an answer is  
23 required, Defendants lack sufficient information to admit or deny the

allegations contained in Paragraph 3.6.5.4 and on this basis deny them.

3.6.5.5 The statements in Paragraph 3.6.5.5 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.6.5.5 and on this basis deny them.

3.6.5.6 The statements in Paragraph 3.6.5.6 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.6.5.6 and on this basis deny them.

3.6.6 The statements in Paragraph 3.6.6 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 3.6.6.

### 3.7 Fraud

3.7.1 Defendants re-state responses to each and every item and allegation above.

### 3.7.2 Elements, Requirements and Definition of Pleading Fraud

3.7.2.1 The statement in Paragraph 3.7.2.1 is a statement that does not warrant a denial or admission from Defendants.

3.7.2.2 The statement in Paragraph 3.7.2.2 is a statement that does not warrant a denial or admission from Defendants.

1                   3.7.2.3 The statement in Paragraph 3.7.2.3 is a statement that does not  
2                   warrant a denial or admission from Defendants.

3           3.7.3 Count One: Defendant OneWest and the Notice of Default

4                   3.7.3.1 Defendants assert that the Notice of Default speaks for itself. To the  
5                   extent an answer is required, Defendants lack sufficient information  
6                   to admit or deny the remaining allegations of Paragraph 3.7.3.1 and  
7                   on this basis deny them.

9                   3.7.3.2 The statement in Paragraph 3.7.3.2 is a statement that does not  
10                  warrant a denial or admission from Defendants.

11                  3.7.3.3 The statements in Paragraph 3.7.3.3 contain legal conclusions and  
12                  Defendants are not required to respond. To the extent an answer is  
13                  required, Defendants lack sufficient information to admit or deny the  
14                  allegations contained in Paragraph 3.7.3.3 and on this basis deny  
15                  them.

17                  3.7.3.4 The statements in Paragraph 3.7.3.4 contain legal conclusions and  
18                  Defendants are not required to respond. To the extent an answer is  
19                  required, Defendants lack sufficient information to admit or deny the  
20                  allegations contained in Paragraph 3.7.3.4 and on this basis deny  
21                  them.

23                  3.7.3.5 The statements in Paragraph 3.7.3.5 contain legal conclusions and  
24                  Defendants are not required to respond. To the extent an answer is  
25                  required, Defendants lack sufficient information to admit or deny the

allegations contained in Paragraph 3.7.3.5 and on this basis deny them.

3.7.3.6 The statements in Paragraph 3.7.3.6 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.3.6 and on this basis deny them.

3.7.3.7 The statements in Paragraph 3.7.3.7 contain statements to do not warrant a denial or admission from Defendants. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.3.7 and on this basis deny them.

3.7.3.8 The statements in Paragraph 3.7.3.8 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.3.8 and on this basis deny them.

3.7.3.9 The statements in Paragraph 3.7.3.9 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.3.9 and on this basis deny them.

### 3.7.4 Count Two: Defendant Northwest Trustee and the Notice of Default

1           3.7.4.1 Defendants assert that the Notice of Default speaks for itself. To the  
2           extent an answer is required, Defendants lack sufficient information  
3           to admit or deny the remaining allegations of Paragraph 3.7.4.1 and  
4           on this basis deny them.

5           3.7.4.2 The statement in Paragraph 3.7.4.2 is a statement that does not  
6           warrant a denial or admission from Defendants.

8           3.7.4.3 The statements in Paragraph 3.7.4.3 contain legal conclusions and  
9           Defendants are not required to respond. To the extent an answer is  
10           required, Defendants lack sufficient information to admit or deny the  
11           allegations contained in Paragraph 3.7.4.3 and on this basis deny  
12           them.

14           3.7.4.4 The statements in Paragraph 3.7.4.4 contain legal conclusions and  
15           Defendants are not required to respond. To the extent an answer is  
16           required, Defendants lack sufficient information to admit or deny the  
17           allegations contained in Paragraph 3.7.4.4 and on this basis deny  
18           them.

19           3.7.4.5 The statements in Paragraph 3.7.4.5 contain legal conclusions and  
20           Defendants are not required to respond. To the extent an answer is  
21           required, Defendants lack sufficient information to admit or deny the  
22           allegations contained in Paragraph 3.7.4.5 and on this basis deny  
23           them.

25           3.7.4.6 The statements in Paragraph 3.7.4.6 contain legal conclusions and  
26           Defendants are not required to respond. To the extent an answer is

1 required, Defendants lack sufficient information to admit or deny the  
2 allegations contained in Paragraph 3.7.4.6 and on this basis deny  
3 them.

4 3.7.4.7 The statements in Paragraph 3.7.4.7 contain legal conclusions and  
5 Defendants are not required to respond. To the extent an answer is  
6 required, Defendants lack sufficient information to admit or deny the  
7 allegations contained in Paragraph 3.7.4.7 and on this basis deny  
8 them.

9 3.7.4.8 The statements in Paragraph 3.7.4.8 contain legal conclusions and  
10 Defendants are not required to respond. To the extent an answer is  
11 required, Defendants lack sufficient information to admit or deny the  
12 allegations contained in Paragraph 3.7.4.8 and on this basis deny  
13 them.

14 3.7.4.9 The statements in Paragraph 3.7.4.9 contain legal conclusions and  
15 Defendants are not required to respond. To the extent an answer is  
16 required, Defendants lack sufficient information to admit or deny the  
17 allegations contained in Paragraph 3.7.4.9 and on this basis deny  
18 them.

19 3.7.5 Count Three: Defendant Northwest Trustee and the Notice of Trustee's Sale

20 3.7.5.1 Defendants assert that the Notice of Trustee's Sale speaks for itself.  
21 To the extent an answer is required, Defendants lack sufficient  
22 information to admit or deny the remaining allegations of Paragraph  
23 3.7.5.1 and on this basis deny them.

1                   3.7.5.2 The statement in Paragraph 3.7.5.2 is a statement that does not  
2                   warrant a denial or admission from Defendants.

3                   3.7.5.3 The statements in Paragraph 3.7.5.3 contain legal conclusions and  
4                   Defendants are not required to respond. To the extent an answer is  
5                   required, Defendants lack sufficient information to admit or deny the  
6                   allegations contained in Paragraph 3.7.5.3 and on this basis deny  
7                   them.

9                   3.7.5.4 Defendants assert that the Assignment of the Deed of Trust and  
10                  Appointment of Successor Trustee speaks for themselves. To the  
11                  extent an answer is required, Defendants lack sufficient information  
12                  to admit or deny the remaining allegations of Paragraph 3.7.5.4 and  
13                  on this basis deny them.

15                  3.7.5.5 The statements in Paragraph 3.7.5.5 contain legal conclusions and  
16                  Defendants are not required to respond. To the extent an answer is  
17                  required, Defendants lack sufficient information to admit or deny the  
18                  allegations contained in Paragraph 3.7.5.5 and on this basis deny  
19                  them.

20                  3.7.5.6 The statement in Paragraph 3.7.5.6 is a statement that does not  
21                  warrant a denial or admission from Defendants. To the extent an  
22                  answer is required, Defendants lack sufficient information to admit  
23                  or deny the allegations contained in Paragraph 3.7.5.6 and on this  
24                  basis deny them.

3.7.5.7 The statement in Paragraph 3.7.5.7 is a statement that does not warrant a denial or admission from Defendants. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.5.7 and on this basis deny them.

3.7.5.8 The statements in Paragraph 3.7.3.8 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.3.8 and on this basis deny them.

3.7.5.9 The statements in Paragraph 3.7.3.9 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.3.9 and on this basis deny them.

### 3.7.6 Count Four: Defendant Northwest Trustee and the Amended notice of Trustee Sale

3.7.6.1 Defendants assert that the Amended Notice of Trustee's Sale speaks for itself. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 3.7.6.1 and on this basis deny them.

3.7.6.2 The statement in Paragraph 3.7.6.2 is a statement that does not warrant a denial or admission from Defendants.

3.7.6.3 The statements in Paragraph 3.7.6.3 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.6.3 and on this basis deny them.

3.7.6.4 To the extent Paragraph 3.7.6.4 contain legal conclusions, Defendants are not require to respond. To the extent an answer is required for the remaining allegations, Defendants assert that the Assignment of the Deed of Trust and Appointment of Successor Trustee speak for themselves.

3.7.6.5 The statement in Paragraph 3.7.6.5 contains a legal conclusion and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegation contained in Paragraph 3.7.6.5 and on this basis deny it.

3.7.6.6 The statements in Paragraph 3.7.6.6 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.6.6 and on this basis deny them.

3.7.6.7 The statement in Paragraph 3.7.6.7 is a statement that does not warrant a denial or admission from Defendants. To the extent an answer is required, Defendants lack sufficient information to admit

1 or deny the allegations contained in Paragraph 3.7.6.7 and on this  
2 basis deny them.

3 3.7.6.8 The statements in Paragraph 3.7.6.8 contain legal conclusions and  
4 Defendants are not required to respond. To the extent an answer is  
5 required, Defendants lack sufficient information to admit or deny the  
6 allegations contained in Paragraph 3.7.6.8 and on this basis deny  
7 them.

9 3.7.6.9 The statements in Paragraph 3.7.3.9 contain legal conclusions and  
10 Defendants are not required to respond. To the extent an answer is  
11 required, Defendants lack sufficient information to admit or deny the  
12 allegations contained in Paragraph 3.7.3.9 and on this basis deny  
13 them.

14 3.7.7 Count Five: Defendant MERS and the Assignment of the Deed of Trust

16 3.7.7.1 Defendants assert that the Assignment of the Deed of Trust speaks  
17 for itself. To the extent it does not, Defendants lack sufficient  
18 information to admit or deny the remaining allegations of Paragraph  
19 3.7.7.1 and on this basis deny them.

20 3.7.7.2 The statement in Paragraph 3.7.7.2 is a statement that does not  
21 warrant a denial or admission from Defendants.

23 3.7.7.3 The statements in Paragraph 3.7.7.3 contain legal conclusions and  
24 Defendants are not required to respond. To the extent an answer is  
25 required, Defendants lack sufficient information to admit or deny the

allegations contained in Paragraph 3.7.7.3 and on this basis deny them.

3.7.7.4 To the extent Paragraph 3.7.7.4 contain legal conclusions, Defendants are not require to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 3.7.7.4 and on this basis deny them.

3.7.7.5 The statements in Paragraph 3.7.7.5 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.7.5 and on this basis deny them.

3.7.7.6 The statement in Paragraph 3.7.7.6 is a statement that does not warrant a denial or admission from Defendants. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.7.6 and on this basis deny them.

3.7.7.7 The statement in Paragraph 3.7.7.7 is a statement that does not warrant a denial or admission from Defendants. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.7.7 and on this basis deny them.

3.7.7.8 The statements in Paragraph 3.7.7.8 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.7.8 and on this basis deny them.

3.7.7.9 The statements in Paragraph 3.7.3.9 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.3.9 and on this basis deny them.

### 3.7.8 Count Six: Defendant OneWest and the Appointment of Successor Trustee

3.7.8.1 Defendants assert that the Appointment of Successor Trustee speaks for itself. To the extent it does not, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 3.7.8.1 and on this basis deny them.

3.7.8.2 The statement in Paragraph 3.7.8.2 is a statement that does not warrant a denial or admission from Defendants.

3.7.8.3 The statements in Paragraph 3.7.8.3 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.8.3 and on this basis deny them.

3.7.8.4 The statements in Paragraph 3.7.8.4 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 3.7.8.4 and on this basis deny them.

3.7.8.5 The statements in Paragraph 3.7.8.5 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.8.5 and on this basis deny them.

3.7.8.6 The statement in Paragraph 3.7.8.6 is a statement that does not warrant a denial or admission from Defendants. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.8.6 and on this basis deny them.

3.7.8.7 The statements in Paragraph 3.7.8.7 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.7.8.7 and on this basis deny them.

3.7.8.8 The statements in Paragraph 3.7.8.8 are statements that do not warrant a denial or admission from Defendants. To the extent an answer is required, Defendants lack sufficient information to admit

1 or deny the allegations contained in Paragraph 3.7.8.8 and on this  
2 basis deny them.

3 3.7.8.9 The statements in Paragraph 3.7.8.9 contain legal conclusions and  
4 Defendants are not required to respond. To the extent an answer is  
5 required, Defendants lack sufficient information to admit or deny the  
6 allegations contained in Paragraph 3.7.8.9 and on this basis deny  
7 them.  
8

9 3.7.9 Fraud on the Court

10 3.7.9.1 The statements in Paragraph 3.7.9.1 are legal conclusions and  
11 Defendants are not required to answer. To the extent an answer is  
12 required, Defendants deny the allegations contained in Paragraph  
13 3.7.9.1.  
14

15 3.7.9.2 The statements in Paragraph 3.7.9.2 are statements are legal  
16 conclusions and Defendants are not required to answer. To the  
17 extent an answer is required, Defendants deny the allegations  
18 contained in Paragraph 3.7.9.2.  
19

20 3.7.9.3 The statements in Paragraph 3.7.9.3 are statements that do not  
21 warrant a denial or admission from Defendants. To the extent an  
22 answer is required, Defendants deny the allegations contained in  
23 Paragraph 3.7.9.3.  
24

25 3.7.10 The statements in Paragraph 3.7.10 contain request for relief and Defendants  
26 are not required to respond. Defendants deny any implicit assertions  
contained in Paragraph 3.7.10.  
27

### 3.8 Civil Conspiracy

3.8.1 Defendants re-state responses to each and every item and allegation above.

### 3.8.2 Elements and Requirements of Civil Conspiracy

3.8.2.1 The statements in Paragraph 3.8.2.1 are statements that do not warrant a denial or admission from Defendants.

### 3.8.3 Conspiracy of Defendants Against Plaintiff

3.8.3.1 The statements in Paragraph 3.8.3.1 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants deny the allegations contained in Paragraph 3.8.3.1.

3.8.3.2 The statements in Paragraph 3.8.3.2 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.8.3.2 and on this basis deny them.

3.8.3.3 The statements in Paragraph 3.8.3.3 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.8.3.3 and on this basis deny them.

3.8.3.4 The statements in Paragraph 3.8.3.4 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the

allegations contained in Paragraph 3.8.3.4 and on this basis deny them.

3.8.4 The statements in Paragraph 3.8.4 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 3.8.4.

### 3.9 Slander of Title

3.9.1 Defendants re-state responses to each and every item and allegation above.

### 3.9.2 Elements of Slander of Title

3.9.2.1 The statements in Paragraph 3.9.2.1 are statements that do not warrant a denial or admission from Defendants.

### 3.9.3 Count 1: Assignment of Deed of Trust

3.9.3.1 The statements in Paragraph 3.9.3.1 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.9.3.1 and on this basis deny them.

3.9.3.2 The statements in Paragraph 3.9.3.2 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.9.3.2 and on this basis deny them.

3.9.3.3 The statements in Paragraph 3.9.3.3 contain legal conclusions and Defendants are not required to respond. To the extent an answer is

1 required, Defendants lack sufficient information to admit or deny the  
2 allegations contained in Paragraph 3.9.3.3 and on this basis deny  
3 them.

4 3.9.3.4 The statements in Paragraph 3.9.3.4 contain legal conclusions and  
5 Defendants are not required to respond. To the extent an answer is  
6 required, Defendants lack sufficient information to admit or deny the  
7 allegations contained in Paragraph 3.9.3.4 and on this basis deny  
8 them.

9 3.9.3.5 The statements in Paragraph 3.9.3.5 contain legal conclusions and  
10 Defendants are not required to respond. To the extent an answer is  
11 required, Defendants lack sufficient information to admit or deny the  
12 allegations contained in Paragraph 3.9.3.5 and on this basis deny  
13 them.

14 3.9.4 Count 2: Appointment of Successor Trustee

15 3.9.4.1 The statements in Paragraph 3.9.4.1 contain legal conclusions and  
16 Defendants are not required to respond. To the extent an answer is  
17 required, Defendants lack sufficient information to admit or deny the  
18 allegations contained in Paragraph 3.9.4.1 and on this basis deny  
19 them.

20 3.9.4.2 The statements in Paragraph 3.9.4.2 contain legal conclusions and  
21 Defendants are not required to respond. To the extent an answer is  
22 required, Defendants lack sufficient information to admit or deny the  
23

allegations contained in Paragraph 3.9.4.2 and on this basis deny them.

3.9.4.3 The statements in Paragraph 3.9.4.3 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.9.4.3 and on this basis deny them.

3.9.4.4 The statements in Paragraph 3.9.4.4 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.9.4.4 and on this basis deny them.

3.9.4.5 The statements in Paragraph 3.9.4.5 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.9.4.5 and on this basis deny them.

### 3.9.5 Count 3: Notice of Trustee Sale

3.9.5.1 The statements in Paragraph 3.9.5.1 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.9.5.1 and on this basis deny them.

3.9.5.2 The statements in Paragraph 3.9.5.2 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.9.5.2 and on this basis deny them.

3.9.5.3 The statements in Paragraph 3.9.5.3 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.9.5.3 and on this basis deny them.

3.9.5.4 The statements in Paragraph 3.9.5.4 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.9.5.4 and on this basis deny them.

3.9.5.5 The statements in Paragraph 3.9.5.5 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.9.5.5 and on this basis deny them.

### 3.9.6 Count 4: Amended Notice of Trustee Sale

3.9.6.1 The statements in Paragraph 3.9.6.1 contain legal conclusions and Defendants are not required to respond. To the extent an answer is

1 required, Defendants lack sufficient information to admit or deny the  
2 allegations contained in Paragraph 3.9.6.1 and on this basis deny  
3 them.

4 3.9.6.2 The statements in Paragraph 3.9.6.2 contain legal conclusions and  
5 Defendants are not required to respond. To the extent an answer is  
6 required, Defendants lack sufficient information to admit or deny the  
7 allegations contained in Paragraph 3.9.6.2 and on this basis deny  
8 them.

9 3.9.6.3 The statements in Paragraph 3.9.6.3 contain legal conclusions and  
10 Defendants are not required to respond. To the extent an answer is  
11 required, Defendants lack sufficient information to admit or deny the  
12 allegations contained in Paragraph 3.9.6.3 and on this basis deny  
13 them.

14 3.9.6.4 The statements in Paragraph 3.9.6.4 contain legal conclusions and  
15 Defendants are not required to respond. To the extent an answer is  
16 required, Defendants lack sufficient information to admit or deny the  
17 allegations contained in Paragraph 3.9.6.4 and on this basis deny  
18 them.

19 3.9.6.5 The statements in Paragraph 3.9.6.5 contain legal conclusions and  
20 Defendants are not required to respond. To the extent an answer is  
21 required, Defendants lack sufficient information to admit or deny the  
22 allegations contained in Paragraph 3.9.6.5 and on this basis deny  
23 them.

1           3.9.7 The statements in Paragraph 3.9.7 contain request for relief and Defendants  
2           are not required to respond. Defendants deny any implicit assertions  
3           contained in Paragraph 3.9.7.

4           3.10 Declaratory Relief; Lack of Standing

5           3.10.1 Defendants re-state responses to each and every item and allegation above.

6           3.10.2 Defendants deny the allegations contained in Paragraph 3.10.2.

7           3.10.3 Defendants deny the allegations contained in Paragraph 3.10.3.

8           3.10.4 Defendants lack sufficient knowledge to admit or deny the allegations  
9           contained in Paragraph 3.10.4 and on this basis deny them.

10           3.10.5 The statements in Paragraph 3.10.5 contain legal conclusions and  
11           Defendants are not required to respond. To the extent an answer is  
12           required, Defendants lack sufficient information to admit or deny the  
13           allegations contained in Paragraph 3.10.5 and on this basis deny them.

14           3.10.6 The statements in Paragraph 3.10.6 contain legal conclusions and  
15           Defendants are not required to respond. To the extent an answer is  
16           required, Defendants lack sufficient information to admit or deny the  
17           allegations contained in Paragraph 3.10.5 and on this basis deny them.

18           3.10.7 The statements in Paragraph 3.10.7 contain request for relief and Defendants  
19           are not required to respond. Defendants deny any implicit assertions  
20           contained in Paragraph 3.10.7.

21           3.11 Permanent Injunction

22           3.11.1 The statement in Paragraph 3.11.1 is a legal conclusion and Defendants  
23           are not required to answer.

3.11.1.1 The statements in Paragraph 3.11.1.1 contain legal conclusions and Defendants are not required to answer.

3.11.1.2 The statements in Paragraph 3.11.1.2 contain legal conclusions and  
Defendants are not required to answer.

3.11.1.3 The statements in Paragraph 3.11.1.3 contain legal conclusions and Defendants are not required to respond.

3.11.1.4 The statements in Paragraph 3.11.1.4 contain legal conclusions and Defendants are not required to answer.

3.11.2 Defendants re-state responses to each and every item and allegation above.

3.11.3 The statements in Paragraph 3.11.3 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 3.11.3.

3.11.4 The statements in Paragraph 3.11.4 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 3.11.4.

3.11.5 The statements in Paragraph 3.11.5 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 3.11.5.

3.11.6 The statements in Paragraph 3.11.6 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 3.11.6.

#### **IV. REQUESTS FOR RELIEF**

4.1 The statements in Paragraph 4.1 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.1.

4.1.1 The statements in Paragraph 4.1.1 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.2.

4.1.2 The statements in Paragraph 4.1.2 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.1.2.

4.1.3 The statements in Paragraph 4.1.3 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.1.3.

4.2 The statements in Paragraph 4.2 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.2.

4.3 The statements in Paragraph 4.3 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.3.

4.4 The statements in Paragraph 4.4 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.4.

- 4.5 The statements in Paragraph 4.5 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.5.
- 4.6 The statements in Paragraph 4.6 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.6.
- 4.7 The statements in Paragraph 4.7 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.7.
- 4.8 The statements in Paragraph 4.8 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.8.
- 4.9 The statements in Paragraph 4.9 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.9.
- 4.10 The statements in Paragraph 4.10 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.10.
- 4.11 The statements in Paragraph 4.11 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.11.

4.12 The statements in Paragraph 4.12 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.12.

## **V. AFFIRMATIVE DEFENSES**

Having answer Plaintiff's SAC, Defendants assert the following affirmative defenses, the assertion of which in no way shift the burden of proof to Defendants:

1. Failure to State a Claim: The assertions in the SAC fail to state claims upon which relief can be granted.
2. Failure of Damages: Plaintiff cannot allege any cognizable damages resulting from the acts alleged in the SAC.
3. Mitigation of Damages: Plaintiff has failed to mitigate the alleged damages.
4. Waiver and Estoppel: Plaintiff's claims are barred by the equitable doctrines of waiver and estoppel.
5. Breach of Contract: Plaintiff breached the Note and defaulted according to the Deed of Trust by failing to make payment described in the Note and Deed of Trust.
6. Nonperformance of Condition Precedent: Plaintiff breached the Note and defaulted according to the Deed of Trust by failing to make payments described in the Note and Deed of Trust.
7. Laches: The claims asserted in the SAC are barred in whole or in part by the equitable doctrine of laches.
8. Contributory Fault/Unclean Hands: The claims asserted in the SAC are barred in whole or in part based on Plaintiff's contributory fault and/or unclean hands.
9. Mootness: Plaintiff's claim is moot and therefore barred at this time.

10. Statutory Exemption. The plaintiff's claim falls within an exemption from statutory coverage.

11. Insufficient service. Plaintiff has failed to effect proper service of the SAC.

12. Defendants also assert the defenses of assumption of risk, mutual mistake, and reserve the right to amend this Answer by way of adding additional affirmative defenses, counter claims, or third party claims as additional facts are discovered, without waiving defenses of lack of subject matter jurisdiction or any other valid defense.

## **VI. PRAYER FOR RELIEF**

Defendant prays for judgment against Plaintiff as follows:

1. That Plaintiff's SAC be dismissed with prejudice;
2. That the Plaintiff recovers nothing on account of the claims made in the SAC.
3. That the Defendant be awarded costs of suit herein; and
4. For such other and further relief as the Court deems equitable and just.

DATED this 10<sup>th</sup> day of May, 2012.

# **ROUTH CRABTREE OLSEN, P.S.**

By: /s/ Heidi E. Buck

Heidi E. Buck, WSBA No. 41769  
Attorneys for Defendants OneWest  
and MERS